

memorandum

DATE: March 1, 2000

REPLY TO
ATTN OF: Office of Environmental Policy and Guidance: Boulos: 6-1306

SUBJECT: Clean Air Act Protection of Stratospheric Ozone Final Rule: Extension of the De Minimis Exemption for Essential Laboratory and Analytical Uses for Calendar Year 2002

TO: Distribution

The purpose of this memorandum is to inform Department of Energy (DOE) program offices and field organizations that on February 11, 2002, the Environmental Protection Agency (EPA) issued a final rule in the Federal Register (67 FR 6351) on "Protection of Stratospheric Ozone: Allocation of Essential-Use Allowances for Calendar Year 2002; and Extension of the De Minimis Exemption for Essential Laboratory and Analytical Uses through Calendar Year 2005." Essential-use allowances permit an organization to obtain controlled class I ozone-depleting substances (ODS) as an exemption to the regulatory phaseout of production and import of these chemicals. EPA allocates essential-use allowances for exempted production or import of class I ODS solely for the designated essential purpose. This rule would affect DOE laboratories that purchase newly-produced or newly-imported class I ODS.

This final rule is finalizing the proposed regulations published in the Federal Register on November 1, 2001 (66 FR 55145), including:

(1) amending Appendix G of 40 CFR 82, Subpart A to eliminate the following uses from the essential-use exemption for laboratory and analytical uses:

- (a) testing of oil and grease, and total petroleum hydrocarbons in water;
- (b) testing of tar in road-paving materials; and
- (c) forensic finger-printing.

The elimination was based on a decision by the Parties to the Montreal Protocol (including the U.S.). EPA does not anticipate that elimination of the preceding uses would create hardship because it believes that class I ODS are not used in the U.S. for uses (b) and (c), and that alternatives for use (a) are available that do not use class I ODS.

(2) adding paragraph (t)(4) to 40 CFR Part 82 Section 82.4, in order to clarify that it is a violation of the Clean Air Act (CAA) if unused class I ODS produced under the authority of essential-use allowances or the exemption for laboratory and analytical uses are used in applications other than the stated essential purposes.

(3) extending the general essential-use exemption for continued production and import of class I ODS for laboratory and analytical applications through calendar year 2005, to be consistent with the Montreal Protocol.

(4) amending the certification requirement at 40 CFR 82.13(y) to provide that:

“A laboratory customer purchasing a controlled substance under the global laboratory essential-use exemption must provide the producer, importer or distributor with a one-time-per-year certification for each controlled substance that the substance will only be used for essential laboratory and analytical uses (defined at appendix G of this subpart) and not be resold or used in manufacturing.”

EPA issued a direct final rule providing an exemption for continued production and import of class I ODS for laboratory and analytical applications in calendar year 2001 (66 FR 14760; March 13, 2001). The Office of Environmental Policy and Guidance (EH-41) issued a memorandum on the direct final rule on May 22, 2001. Use of stockpiled or recycled class I ODS for laboratory and analytical uses are not affected by either the March 13, 2001, rule or the February 11, 2002, rule.

The February 11, 2002 final rule is available at <http://www.eh.doe.gov/oepa/rules/67/67fr6351.pdf> on the Office of Environmental Policy and Guidance (EH-41) Home Page.

Questions concerning this memorandum should be directed to Mr. Emile Boulos of my staff at: emile.boulos@eh.doe.gov; 202-586-1306.

(A. Wallo signed original)
Andrew Wallo III
Director
Air, Water and Radiation Division